

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

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AUTHORITY: 7 U.S.C. 2011–2036.

EDITORIAL NOTE: OMB control numbers relating to this part 273 are contained in §271.8.

§ 273.1 Household concept.

(a) *General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

- (1) An individual living alone;
- (2) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
- (3) A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(b) *Special household requirements.*—(1) *Required household combinations.* The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in

the same household, unless otherwise specified.

(i) Spouses;

(ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and

(iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

(2) *Elderly and disabled persons.* Notwithstanding the provisions of paragraph (a) of this section, an otherwise eligible member of a household who is 60 years of age or older and is unable to purchase and prepare meals because he or she suffers from a disability considered permanent under the Social Security Act or a non disease-related, severe, permanent disability may be considered, together with his or her spouse (if living there), a separate household from the others with whom the individual lives. Separate household status under this provision must not be granted when the income of the others with whom the elderly disabled individual resides (excluding the income of the elderly and disabled individual and his or her spouse) exceeds 165 percent of the poverty line.

(3) *Boarders.* (i) Residents of a commercial boarding house, regardless of the number of residents, are not eligible to participate in the Program. A commercial boarding house is an establishment licensed to offer meals and lodging for compensation. It does not include any of the entities listed in paragraph (b)(7)(vii) of this section. In project areas without licensing requirements, a commercial boarding house is a commercial establishment that offers meals and lodging for compensation with the intent of making a profit.

(ii) All other individuals or groups of individuals paying a reasonable amount for meals or meals and lodging must be considered boarders and are not eligible to participate in the Program independently of the household providing the board. Such individuals

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or groups of individuals may participate, along with a spouse or children living with them, as members of the household providing the boarder services, only at the request of the household providing the boarder services. An individual paying less than a reasonable amount for board must not be considered a boarder but must be considered, along with a spouse or children living with him or her, as a member of the household providing the board.

(A) For individuals whose board arrangement is for more than two meals per day, “reasonable compensation” must be an amount that equals or exceeds the maximum food stamp allotment for the appropriate size of the boarder household.

(B) For individuals whose board arrangement is for two meals or less per day, “reasonable compensation” must be an amount that equals or exceeds two-thirds of the maximum food stamp allotment for the appropriate size of the boarder household.

(iii) Boarders must not be considered to be residents of an institution as outlined in paragraph (b)(7)(vii) of this section.

(4) *Foster care individuals.* Individuals placed in the home of relatives or other individuals or families by a Federal, State, or local governmental foster care program must be considered to be boarders. They cannot participate in the Program independently of the household providing the foster care services. Such foster care individuals may participate, along with a spouse or children living with them, as members of the household providing the foster care services, only at the request of the household providing the foster care.

(5) *Roomers.* Individuals to whom a household furnishes lodging for compensation, but not meals, may participate as separate households. Persons described in paragraph (b)(1) of this section must not be considered roomers.

(6) *Live-in attendants.* A live-in attendant may participate as a separate household. Persons described in paragraph (b)(1) of this section must not be considered live-in attendants.

(7) *Ineligible household members.* The following persons are not eligible

to participate as separate households or as a member of any household:

(i) Ineligible aliens and students as specified in § 273.4 and § 273.5, respectively;

(ii) SSI recipients in “cash-out” States as specified in § 273.20;

(iii) Individuals disqualified for non-compliance with the work requirements of § 273.7;

(iv) Individuals against whom a sanction was imposed for failure to comply with a workfare requirement as specified in § 273.22;

(v) Individuals disqualified for failure to provide an SSN as specified in § 273.6;

(vi) Individuals disqualified for an intentional Program violation as specified in § 273.16; and

(vii) Residents of an institution, with some exceptions. Individuals must be considered residents of an institution when the institution provides them with the majority of their meals (over 50 percent of three meals daily) as part of the institution’s normal services. Exceptions to this requirement include only the individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) of this section. The individuals listed in paragraphs (b)(7)(vii)(A) through (b)(7)(vii)(E) can participate in the Program and must be treated as separate households from the others with whom they reside, subject to the mandatory household combination requirements of paragraph (b)(1) of this section, unless otherwise stated:

(A) Individuals who are residents of federally subsidized housing for the elderly;

(B) Individuals who are narcotic addicts or alcoholics and reside at a facility or treatment center for the purpose of regular participation in a drug or alcohol treatment and rehabilitation program. This includes the children but not the spouses of such persons who live with them at the treatment center or facility;

(C) Individuals who are disabled or blind and are residents of group living arrangements;

(D) Individual women or women with their children who are temporarily residing in a shelter for battered women and children; and

(E) Individuals who are residents of public or private nonprofit shelters for homeless persons.

(c) *Unregulated situations.* For situations that are not clearly addressed by the provisions of paragraphs (a) and (b) of this section, the State agency may apply its own policy for determining when an individual is a separate household or a member of another household if the policy is applied fairly, equitably and consistently throughout the State.

(d) *Head of household.* (1) A State agency shall not use the head of household designation to impose special requirements on the household, such as requiring that the head of household, rather than another responsible member of the household, appear at the certification office to make application for benefits. When designating the head of household, the State agency shall allow the household to select an adult parent of children (of any age) living in the household, or an adult who has parental control over children (under 18 years of age) living in the household, as the head of household provided that all adult household members agree to the selection. The State agency shall permit such households to select their head at each certification action or whenever there is a change in household composition. The State agency shall provide written notice to all households at the time of application and as otherwise appropriate that specifies the household's right to select its head of household in accordance with this paragraph. The written notice shall identify which households have the option to select their head of household, the circumstances under which a household may change its designation of head of household, and how such changes must be reported to the State agency. If all adult household members do not agree to the selection or decline to select an adult parent as the head of household, the State agency may designate the head of household or permit the household to make another selection. In no event shall the household's failure to select an adult parent of children or an adult who has parental control over children as the head of household delay the certification or result in the denial of benefits of an otherwise eligible household.

For households that do not consist of adult parents and children or adults who have parental control of children living in the household, the State agency shall designate the head of household or permit the household to do so.

(2) For purposes of failure to comply with § 273.7 and § 273.22 (to the extent that workfare programs operated under this paragraph are included as components of State agency E&T programs), the head of household shall be the principal wage earner unless the household has selected an adult parent of children as specified in § 273.1(d)(1). The principal wage earner shall be the household member (including excluded members) who is the greatest source of earned income in the two months prior to the month of the violation. This provision applies only if the employment involves 20 hours or more per week or provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours. No person of any age living with a parent or person fulfilling the role of a parent who is registered for work or exempt from work registration requirements because such parent or person fulfilling the role of a parent is subject to and participating in any work requirement under title IV of the Social Security Act, or in receipt of unemployment compensation (or has registered for work as part of the application for or receipt of unemployment compensation), or is employed or self-employed and working a minimum of 30 hours weekly or receiving weekly earnings equal to the Federal minimum wage multiplied by 30 hours shall be considered the head of household unless the person is an adult parent of children as specified in § 273.1(d)(1) and the household elects to designate the adult parent as its head of household. If there is no principal source of earned income in the household, the household member, documented in the casefile as the head of the household at the time of the violation, shall be considered the head of household. The designation of head of household through the circumstances of this paragraph shall take precedence over a previous designation of head of household at least until the period of ineligibility is ended.

(e) *Strikers.* Households with a striking member are not eligible to participate in the Program, unless the household was eligible for benefits the day before the strike and is otherwise eligible at the time of application. A striker must be anyone involved in a strike or concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees. Any employee affected by a lockout, however, must not be deemed to be a striker. Further, an individual who goes on strike but is exempt from work registration under § 273.7(b) the day before the strike, other than those exempt solely on the grounds that they are employed, must not be deemed to be a striker. Also, persons such as truck drivers who cannot do their jobs because the strike has left them with nothing to deliver, and employees who are not part of the bargaining unit and do not want to cross the picket line for fear of personal injury or death, must not be deemed to be strikers.

(1) Pre-strike eligibility must be determined by considering the day prior to the strike as the day of application and assuming the strike did not occur.

(2) Eligibility at the time of application must be determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of non-striking members during the month of application. If the household is eligible, the higher income figure must also be used in determining the household's benefits.

(f) *Authorized representatives.* The head of household, spouse, or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the Program, in obtaining benefits, and/or in using benefits at authorized retail food firms and meal services. Rules pertaining to the use of authorized representatives to obtain household benefits or to use household benefits are in § 274.5. Rules pertaining to designating authorized representatives to apply for the Program are specified in this section.

(1) *Making application for the program.*

When the head of the household or the spouse cannot make application, another household member may apply or an adult nonhousehold member may be designated as the authorized representative for that purpose. The head of the household or the spouse should prepare or review the application whenever possible, even though another household member or the authorized representative will actually be interviewed. In conjunction with these provisions, another household member, or the household's authorized representative, may complete work registration forms for those household members required to register for work. The State agency shall inform the household that the household will be held liable for any over issuance which results from erroneous information given by the authorized representative, except as provided in § 273.11(e) and § 273.16(a). Adults who are non-household members may be designated as authorized representatives for certification purposes only under the following conditions:

(i) The authorized representative has been designated in writing by the head of the household, or the spouse, or another responsible member of the household; and

(ii) The authorized representative is an adult who is sufficiently aware of relevant household circumstances.

(2) *Drug addict/alcoholic treatment centers and group homes as authorized representatives.* Narcotic addicts or alcoholics who regularly participate in a drug or alcoholic treatment program (as defined in § 271.2) on a resident basis and their children who live with them and disabled or blind residents of group living arrangements (as defined in § 271.2) who receive benefits under title II or title XVI of the Social Security Act may elect to participate in the Food Stamp Program.

(i) The residents of drug or alcoholic treatment centers shall apply and be certified for program participation through the use of an authorized representative who shall be an employee of and designated by the publicly operated community mental health center or the private nonprofit organization or institution that is administering the treatment and rehabilitation program.

(ii) Residents of group living arrangements shall either apply and be certified through use of an authorized representative employed and designated by the group living arrangement or apply and be certified on their own behalf or through an authorized representative of their own choice. The group living arrangement shall determine if any resident may apply for food stamps on his/her own behalf; the determination should be based on the resident's physical and mental ability to handle his/her own affairs. The group living arrangement is encouraged to consult with any other agencies of the State providing other services to individual residents prior to a determination. All of the residents of the group living arrangement do not have to be certified either through an authorized representative or individually in order for one or the other method to be used. Applications shall be accepted for any individual applying as a one-person household or for any grouping of residents applying as a household as defined in § 273.1. If the residents are certified on their own behalf, the coupon allotment may either be returned to the facility to be used to purchase food for meals served either communally or individually to eligible residents; used by eligible residents to purchase and prepare food for their own consumption; and/or to purchase meals prepared and served by the group living arrangement. In any case, the group living arrangement is responsible for complying with the requirements set forth in § 273.11(f). If the group living arrangement has its status as an authorized representative suspended by FNS (as discussed in § 273.11(f)(6)), residents applying on their own behalf shall still be able to participate if otherwise eligible.

(3) In the event the only adult living with a household is classified as a non-household member as defined in paragraph (b) of this section, that individual may be the authorized representative for the minor household members.

(4) The following restrictions apply to authorized representatives: (i) State agency employees who are involved in the certification and/or issuance processes and retailers that are authorized

to accept food coupons may not act as authorized representatives without the specific written approval of the designated State agency official and only if that official determines that no one else is available to serve as an authorized representative.

(ii) Individuals disqualified for an intentional Program violation shall not act as authorized representatives during the period of disqualification, unless the individual disqualified is the only adult member of the household able to act on its behalf and the State agency has determined that no one else is available to serve as an authorized representative. The State agency shall separately determine whether these individuals are needed to apply on behalf of the household, to obtain coupons, and to use the coupons for food for the household. For example, the household may have an authorized representative to obtain its coupons each month, but not be able to find anyone to purchase food regularly with the coupons. If the State agency also is unable to find anyone to serve as an authorized representative to purchase food regularly with the coupons, the disqualified member shall be allowed to do so.

(iii) The State agency shall insure that authorized representatives are properly designated. The name of the authorized representative shall be contained in the household's case file. Limits shall not be placed on the number of households an authorized representative may represent. In the event employers, such as those that employ migrant or seasonal farm-workers, are designated as authorized representatives or that a single authorized representative has access to a large number of ATP's or coupons, the State agency should exercise caution to assure that: The household has freely requested the assistance of the authorized representative; the household's circumstances are correctly represented and the household is receiving the correct amount of benefits; and that the authorized representative is properly using the coupons. State agencies which have obtained evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to

the household, or has made improper use of coupons, may disqualify that authorized representative from participating as an authorized representative in the Food Stamp Program for up to one year. The State agency shall send written notification to the affected household(s) and the authorized representative thirty days prior to the date of disqualification. The notification shall include: The proposed action; the reason for the proposed action; the household's right to request a fair hearing; the telephone number of the office; and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcoholic treatment centers and those group homes which act as authorized representatives for their residents.

(iv) Homeless meal providers, as defined in § 271.2, may not act as authorized representatives for homeless food stamp recipients.

[Amdt. 132, 43 FR 47889, Oct. 17, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 273.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 65 FR 70193, Nov. 21, 2000, in § 273.1, paragraph (f) was removed, effective January 20, 2001.

§ 273.2 Application processing.

(a) *General purpose.* The application process includes filing and completing an application form, being interviewed, and having certain information verified. The State agency shall act promptly on all applications and provide food stamp benefits retroactive to the month of application to those households that have completed the application process and have been determined eligible. Expedited service shall be available to households in immediate need. Specific responsibilities of households and State agencies in the application process are detailed below.

(b) *Food Stamp application form.*—(1) *Content.* Each application form shall contain:

(i) In prominent and boldface lettering and understandable terms a statement that the information provided by the applicant in connection

with the application for food stamp benefits will be subject to verification by Federal, State and local officials to determine if such information is factual; that if any information is incorrect, food stamps may be denied to the applicant; and that the applicant may be subject to criminal prosecution for knowingly providing incorrect information;

(ii) In prominent and boldface lettering and understandable terms a description of the civil and criminal provisions and penalties for violations of the Food Stamp Act;

(iii) A statement to be signed by one adult household member which certifies, under penalty of perjury, the truth of the information contained in the application, including the information concerning citizenship and alien status;

(iv) A place on the front page of the application where the applicant can write his/her name, address and signature;

(v) In plain and prominent language on or near the front page of the application, notification of the household's right to immediately file the application as long as it contains the applicant's name and address and the signature of a responsible household member or the household's authorized representative;

(vi) In plain and prominent language on or near the front page of the application, a description of the expedited service provisions described in paragraph (i) of this section; and

(vii) In plain and prominent language on or near the front page of the application, notification that benefits are provided from the date of application.

(2) *Income and eligibility verification system (IEVS).* All applicants for food stamp benefits shall be notified at the time of application and at each recertification through a written statement on or provided with the application form that information available through the State income and eligibility verification (IEVS) will be requested, used and may be verified through collateral contact when discrepancies are found by the State agency, and that such information may affect the household's eligibility and level of benefits. All applicants shall